



LAW OFFICES OF  
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## *Via Electronic Case Filing Only*

June 7, 2019

Hon. Arlene R. Lindsay, USMJ  
Eastern District New York  
100 Federal Plaza  
Central Islip, NY 11722

**re: Plaintiff's Request for an Order Compelling Production of  
Defendants on date certain for deposition testimony;**

***Warren v. Castella Imports et al.* Docket No.: 2:18-cv-04740**

Dear Hon. Judge Lindsay:

Plaintiff respectfully requests this Honorable Court to order production of the named Defendants for depositions on dates certain. This application is necessary due to unilateral cancelling of depositions, accrual of attorney's fees and costs for Defendants' refusal to provide and honor dates of depositions at their place of business, and Defendants continued refusal to comply with the Federal Rules of Civil Procedure.

To date, Defendants refuse to provide a deposition date for Defendant Cortes. After a meet and confer conversation yesterday and an electronic mailing from 1:00 PM this afternoon, Defendants refuse to provide a date for Defendant Cortes' deposition. Court intervention is necessary.

Yesterday, Mr. Roberts acknowledged that documentation responsive to Plaintiff's discovery demands exists and is still outstanding, inclusive of electronic mailings acknowledged and in readily available to Mr. Roberts. Defendants were given the opportunity to produce such electronic mailings during a break in the deposition, but Counsel for Defendants refused to do so.

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Plaintiff is an active member of the United States Army who has made himself available from the verification of this complaint to date.

Defendants demanded a detailed settlement demand which Plaintiff provided and Defendants have ignored.

After meeting and conferring on June 6, 2019, Counsel for Defendants still refuses to confirm dates/times for depositions of the named parties as described below.

Plaintiff was informed on two occasions that Defendant Roberts would be available for a deposition on May 31, 2019 and counsel ordered a court reporter and arranged his scheduled accordingly. At 7:00 PM on May 29, 2019 without providing any reason therefore, Counsel for Defendants cancelled the deposition.

Finally, on June 5, 2019, Defendant Roberts, after going to his state court appearance in the morning, showed up at 12:30 PM and testified that he had worked throughout May 31, 2019 instead of testifying at the confirmed Deposition.

On June 5, 2019 at approximately 5:30 PM, defense counsel Christopher Del Bove stated that he could not produce Mr. Vlasmos before 12:00 PM at Defendants' place of business. Defense counsel only allowed Plaintiff's counsel 20–30 minutes to arrange for a court reporter to appear at 12:00 PM the next day and remain there for an unknown period of time, which Plaintiff's counsel did promptly arrange.

Defendants cancelled the June 6, 2019 deposition of Defendant Vlasmos at 6:00 PM on June 5, 2019 after confirming in a May 24, 2019 letter that Defendant Vlasmos would be available for deposition testimony on that date.

Defense counsel cancelled the deposition minutes after Plaintiff ordered a court reporter for the time agreed upon. As with Defendant Roberts, there was no reason given for the cancellation. As with the deposition of Defendant Roberts, Plaintiff's counsel was left in the uncomfortable and unprofessional position of calling a court reporter of nearly forty years' experience and explaining that defense counsel changed his mind within the past ten minutes.

## COURT INTERVENTION IS REQUIRED

Plaintiff respectfully requests the intervention of the Court to Order that the Defendants produce the named Defendants for deposition on a date certain. Alternatively, Plaintiff requests that this case be scheduled for trial by jury without delay.

Defendants' continued violation of the Federal Rules of Civil Procedure and Court Orders result in prejudice to the Plaintiff, a member of the United States Army awaiting redeployment overseas.

Defense counsel's refusal to confirm depositions, provide date/time of deposition, or honor the dates Defendants previously chose has created unnecessary costs, fees, delay and frustration for Plaintiff and his counsel.

Wherefore, Plaintiff respectfully requests this Honorable Court provide some meaningful remedy to the Plaintiff such as Order a date certain for the production of the named Defendants, discontinue the discovery process and move the case to trial or conditionally strike Defendants' answer should it not produce the named Defendant as previously represented, all together with such other and further relief as to this Honorable Court shall seem just and proper under the circumstances.

Respectfully Submitted,

CORY H. MORRIS

cc: Mitchell Ryan Ayes, Esq. (*via electronic case filing only*)  
Christopher Smith Del Bove, Esq. (*via electronic case filing only*)